

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SAMUEL G. BREITLING AND
JO ANN BREITLING

Plaintiffs,

VS.

LNK CORPORATION et al;
CODILIS & STAWIARSKI P.C.;
DOES 1 TO 50

Defendants.



NO. 3:15-CV-00703

MOTION FOR LEAVE OF THE
COURT TO FILE FIRST
AMENDED COMPLAINT

JURY TRIAL DEMANDED

MOTION FOR LEAVE OF THE COURT TO FILE PLAINTIFFS' FIRST AMENDED
COMPLAINT

Comes Plaintiffs, Samuel and JoAnn Breitling, self represented, and hereby move the court for leave to file their first amended complaint which should be granted for the following reasons:

FRCP Rule 15 states:

- “(1) Amending as a Matter of Course. A party may amend its pleading once as a matter of course within:
 - (A) 21 days after serving it...
- (2) Other Amendments. In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.”

Being novice pro se litigants Plaintiffs do not understand proper procedure and are doing their very best to learn as they go. In the interest of justice Plaintiffs should be granted leave of the court to file their first amended complaint.

Plaintiffs filed their first unopposed motion for leave of the court to amend their complaint on October 17, 2014. [Dkt. No. 31; Case: 3:14-cv-03322-M-BN] The present case is merely a continuation of Case: 3:14-cv-03322-M-BN and therefore the entire body of Plaintiffs' pro se pleadings must be construed so as to do substantial justice. In Baldwin County Welcome Center v. Brown 466 U.S. 147, 104 S. Ct. 1723, 80 L. Ed. 2d 196, 52 U.S.L.W. 3751 the United States Supreme Court stated:


“Rule 8(f) provides that ‘all pleadings shall be so construed as to do substantial justice.’ We frequently have stated that pro se pleadings are to be given a liberal construction. E.g., Haines v. Kerner, 404 U.S. 519, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972). If these pronouncements have any meaning, they must protect the pro se litigant who simply does not properly denominate her motion or pleading in the terms used in the Federal Rules.”

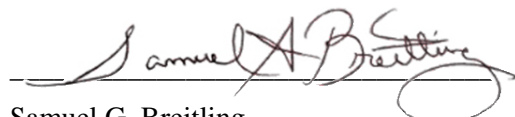
On October 29, 2014 Magistrate Judge David L. Horan filed his FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE [Dkt. No. 42 Case: 3:14-cv-03322-M-BN] recommending remand. Judge Barbara Lynn stayed the case on November 7, 2014 [Dkt. No. 46 Case: 3:14-cv-03322-M-BN].

PRAYER

Plaintiffs pray this Honorable Court permits them to file their first amended complaint.

Respectfully Submitted,


JoAnn S. Breitling


Samuel G. Breitling

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CERTIFICATE OF CONFERENCE
TO FILE FIRST AMENDED
COMPLAINT


JURY TRIAL DEMANDED


CERTIFICATE OF CONFERENCE TO FILE PLAINTIFFS' FIRST AMENDED
COMPLAINT

Comes Plaintiffs, Samuel and JoAnn Breitling, self represented, and hereby certify that on December 9, 2015 Plaintiff JoAnn Breitling conferred with Defendant Codilis & Stawiarski's ("C&S") Counsel Clayton Devin and Defendant LNV Corporation's ("LNV") Counsel Marc Cabrera with Locke Lord.

Although Defendants LNV and C&S was previously not opposed to Plaintiff's filing their first amended complaint, they now are.

Respectfully Submitted,


JoAnn S. Breitling


Samuel G. Breitling

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served upon all counsel of record and pro-se parties via the Court's CM/ECF system, email, and/or regular mail, and/or certified mail with return receipt requested; and that a correct copy of the foregoing document was served upon The United States Attorney General and the Texas Attorney General at the addresses below:

Attorney General of Texas,
Ken Paxton
P.O. Box 12548
Austin, Texas 78711

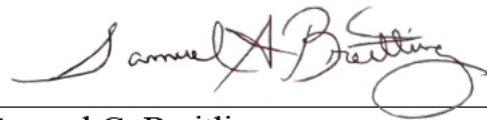
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JoAnn S Breitling



Samuel G. Breitling